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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,095	01/16/2004	Michael D. Jenkins		2112

7590 06/20/2006  
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5792 Main Street  
Williamsville, NY 14221

EXAMINER

WEST, LEWIS G

ART UNIT PAPER NUMBER

2618

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/760,095	<b>Applicant(s)</b> JENKINS, MICHAEL D.	
	<b>Examiner</b> Lewis G. West	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2618

Applicant's arguments filed May 11, 2006 have been fully considered but they are not persuasive.

As stated in the previous action "messages are associated with a specific coordinate waypoint and are not associated with a specific subscriber within said network. (Col. 7 line 44-col. 8 line 4) The messages are sent to any mobile in the region of the waypoint meeting the category criteria, not to a specific subscriber."

Therefore applicant has failed to address this cited portion of Smith, and has made only a general statement that the messages are associated with a subscriber, which is clearly not the case, as messages are sent to devices based on proximity to a waypoint when the devices are identified as falling within a particular category. The identity of a specific user is not relevant to the process.

Further the rejection under 35 USC 112 has not been addressed, so applicant's arguments are non-responsive with respect to this issue.

Given the failure of the arguments to address the cited reference appropriately with respect to the 35 USC 102 rejections and the complete failure to address the 35 USC 112 rejection, this action is made final and prosecution is closed.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 7, the phrase "or other" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or other"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith, Jr. et al (US 6,836,667 B1).

Regarding claim 1, Smith discloses a system for filtering messages associated with coordinate way points, the system comprising:

a mobile radio service provider network; (Col. 3 line 50-col. 4 line 5)

a plurality of subscriber devices enabled to function with said mobile radio service provider network; (Col. 3 lines 28-37)

at least one user interface inherent to said devices for facilitating two-way communication with said network, (Col. 3 line 56-col. 4 line 3; col. 8 lines 23-27)

Art Unit: 2618

said devices each possessing a unique identification number; (Col. 7 lines 58-67)

said device enabled to be set to a specific area of granularity within said provider network, (Col. 5 lines 8-15)

wherein messages outside said area of granularity would be not be receivable to said subscriber and messages within said area of granularity would be receivable to said subscriber, (Col. 8 lines 36-50)

wherein said messages are associated with a specific coordinate waypoint and are not associated with a specific subscriber within said network. (Col. 7 line 44- col. 8 line 4) The messages are sent to any mobile in the region of the waypoint meeting the category criteria, not to a specific subscriber.

Regarding claim 2, Smith discloses the system according to claim 1 wherein said messages are stored in a database (450) within said network. (Col. 8 line 5-27)

Regarding claim 3, Smith discloses the system according to claim 1 wherein said devices include personal computers, cell phones, personal digital assistants, user-supported computer. (wireless mobile unit 410 see col. 7 line 53-col. 8 line 4 wherein device 410 is described a telecommunications device operating in a cellular environment identifiable by a phone number, therefore a cellular phone). Given that limitations are claimed in the alternative, only one limitation must be met to read on the claim.

Regarding claim 4, Smith discloses the system according to claim 1 wherein said devices are located within said network by a positioning algorithm based on a method selected from the group consisting of triangulation of multiple signals, signal strengths of multiple signals, time difference of arrival of different signals, angle of arrival differences of different signals, GPS

Art Unit: 2618

signals, and combinations thereof. (Col. 4 lines 23-44) Specifically GPS is recited and given that the limitations are claimed in the alternative, only one limitation must be met to read on the claim.

Regarding claim 5, Smith discloses the system according to claim 2 wherein said mobile radio service provider network is divided up into a two-dimensional grid of grid points, said database associating a physical location of a user device with one of said grid points. (Col. 5 lines 29-41) A map is a two-dimensional representation of grid points for providing location.

Regarding claim 6, Smith discloses the system according to claim 2 wherein said mobile radio service provider network is divided up into a three-dimensional grid of grid points, said database associating a physical location of a user device with one of said grid points. (Col. 4 lines 23-44) Global Positioning Systems (GPS) uses three dimensional grid space (latitude, longitude and altitude) to provide a 3 dimensional coordinate space location.

Regarding claim 7, Smith discloses the system according to claim 1 wherein said mobile radio service provider network communicates using a protocol selected from the group consisting of CDMA, TDMA, FDMA, wide-band CDMA, and other. (Co. 3 lines 50-52) Limitations are claimed in the alternative, so only one limitation must be met to read on the claim. The term other is broad so that any mobile service using any protocol reads on the limitation, and thus the system of Smith reads on the claim language.

Regarding claim 8, Smith discloses a method of filtering messages associated with coordinate waypoints, the method comprising the steps of:

in a mobile radio service provider network, utilizing signal origination point determining hardware, (Col. 3 line 50-col. 4 line 5)

Art Unit: 2618

a plurality of wireless subscriber communications devices activated on said network,  
(Col. 3 lines 28-37)

and a unique beacon signal from each of said devices identifying the location of a user  
within said network (Col. 7 lines 32-43);

setting a level of spatial granularity to which said device will be responsive to said  
network; (Col. 5 lines 8-15)

monitoring said device's locations within said network using at least a beacon signal and  
hardware in either said device or in said network; (Col. 6 lines 44-58)

determining whether an available message meets the level of spatial granularity set in  
said device; (Col. 7 line 44-col. 8 line 4)

rejecting said messages that exceed the level of spatial granularity set in said device; and  
accepting said messages that are within said level of spatial granularity set in said device. (col. 8  
lines 36-50)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Lewis G. West whose telephone number is 571-272-7859. The  
examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Matthew D. Anderson can be reached on 571-272-4177. The fax phone number for  
the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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